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Reservations to treaties

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Guide to Practice

1. Definitions

1.1 Definition of reservations

"Reservation" means a unilateral statement, however phrased or named, made by a State or an international organization when signing, ratifying, formally confirming, accepting, approving or acceding to a treaty or by a State when making a notification of succession to a treaty, whereby the State or organization purports to exclude or to modify the legal effect of certain provisions of the treaty in their application to that State or to that international organization.

1.1.1 [1.1.4] Object of reservations

A reservation may relate to one or more provisions of a treaty or, more generally, to the way in which the State intends to apply the treaty as a whole.

1.1.2 Instances in which reservations may be formulated

Instances in which a reservation may be formulated under guideline 1.1 include all the means of expressing consent to be bound by a treaty mentioned in article 11 of the Conventions of 1969 and 1986 on the Law of Treaties.

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1.1.3 [1.1.8] Reservations having territorial scope

A unilateral statement by which a State purports to exclude the application of a treaty or some of its provisions to a territory to which that treaty would be applicable in the absence of such a statement constitutes a reservation.

1.1.4 [1.1.3] Reservations formulated when notifying territorial application

A unilateral statement by which a State purports to exclude or to modify the legal effect of certain provisions of a treaty in relation to a territory in respect of which it makes a notification of the territorial application of the treaty constitutes a reservation.

1.1.5 [1.1.6] Statements designed to limit the obligations of their author

A unilateral statement whereby a State or an international organization purports to limit the obligations the treaty imposes on it constitutes a reservation.

1.1.6 [1.1.5] Statements purporting to increase the obligations of their author

A unilateral statement whereby a State or an international organization undertakes obligations going beyond those imposed on it by a treaty or purports to assume a right not contained in a treaty does not constitute a reservation.

1.1.7 [1.1.1] Reservations formulated jointly

The joint formulation of a reservation by several States or international organizations does not affect the unilateral nature of that reservation.

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Defining a unilateral statement as a reservation is without prejudice to its permissibility and its effects under the rules relating to reservations.[1]

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[1] The title and the location of this guideline will be determined at a later stage.